

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Stephen P. Forte

Application No.: 09/879,917

Confirmation No.: 5556

Filed: June 14, 2001

Art Unit: 2618

For: METHOD AND APPARATUS FOR
COMMUNICATING VIA VIRTUAL OFFICE
TELEPHONE EXTENSIONS

Examiner: A. Perez

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This brief is being filed within one month from the mailing of the Notice of Panel Decision from Pre-Appeal Brief Review, mailed on June 12, 2007, and is in furtherance of the Notice of Appeal filed on April 30, 2007.

The fees required under § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1206:

I.	Real Party In Interest
II	Related Appeals and Interferences
III.	Status of Claims
IV.	Status of Amendments
V.	Summary of Claimed Subject Matter
VI.	Grounds of Rejection to be Reviewed on Appeal
VII.	Argument
VIII.	Conclusion
Appendix A.	Claims Appendix
Appendix B.	Evidence Appendix (none)
Appendix C.	Related Proceedings Appendix (none)

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is Ascendent Telecommunications, Inc., a corporation organized under and pursuant to the laws of the State of California, and the assignee of this application.

II. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

There are no other appeals, interferences or judicial proceedings that will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 27 claims pending in the present application. The application contains claims 1-26 and 29, all of which have been finally rejected. This is an appeal from the final rejection of claims 1-26 and 29.

B. Current Status of Claims

1. Claims canceled: 27 and 28.
2. Claims withdrawn from consideration but not canceled: None.
3. Claims pending: 1-26 and 29.
4. Claims allowed: None.
5. Claims rejected: 1-26 and 29.

C. Claims On Appeal

The claims on appeal are claims 1-26 and 29.

IV. STATUS OF AMENDMENTS

There have been no amendments subsequent to the December 1, 2006 Final Rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

One of the embodiments, reproduced below, disclosed in the present application relates to telecommunication system 10 having a wireless connect unit 30 that essentially integrates wireless devices 82, 84, 86, 88 and personal wireless devices 70 into an enterprise communication network 11 (a major component being PBX 14). In the illustrated embodiment, the wireless devices 82, 84, 86, 88 act as virtual office telephones associated with one or more PBX extensions and are used in lieu of or in conjunction with standard hardwired desktop telephones 89, 90. The wireless telephones 82, 84, 86, 88 are not connected via hardwired lines to the PBX 14, but are instead accessed using conventional wireless equipment through a PSTN 16, 54 to a commercial wireless carrier (symbolically represented by a wireless switch 58 and an antenna 60). Because the need for hardwired lines is eliminated for these wireless telephones, the considerable costs of constructing and maintaining a traditional hardwired telephone infrastructure at each enterprise location can be saved. Present Application p. 6, lines 1-16.

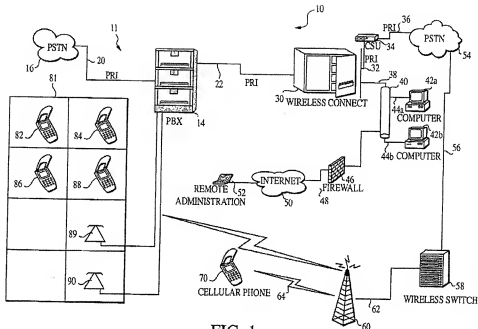
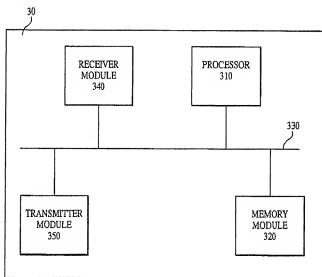


FIG. 1

As is described below, the system 10 can selectively establish communications with one of a plurality of telephony devices (wired telephones 89, 90, wireless telephones 82, 84, 86, 88 and/or personal wireless device 70) associated with a particular telephone extension or DID (direct inward dial) telephone number of the enterprise network 11. Moreover, the system 10 will allow the wireless office telephones 82, 84, 86, 88 and personal device 70 to perform as standard office telephones for both inbound and outbound communications. That is, wireless devices will be able to use features of the office network 11 even though the devices are not directly connected to the office PBX 14. The system 10 also allows the wireless devices, including wireless office telephones 82, 84, 86, 88 and personal wireless device 70, to operate as independent wireless telephones capable of conventional interaction with a commercial wireless carrier using their own telephone numbers (and not a number attributable to the network 11), if so desired. That is, the wireless devices 82, 84, 86, 88, 70 may receive calls placed to its (non-office) DID telephone number even though the system 10 also routes PBX calls to the wireless devices 82, 84, 86, 88, 70. Present Application p. 7, lines 3-20. In the embodiment illustrated in Figure 1, four wireless telephones 82, 84, 86, 88 and two standard wired telephones 89, 90 are each associated with a different respective PBX extension of the enterprise network 11, and correspond to six offices or users. Present Application p. 8, lines 7-9.

The wireless connect unit 30 (WC 30) is coupled between the PBX 14 and a PSTN 54 by appropriate communication media. A local area network 40, computers 42a, 42b and/or a remote administration device 52 may be used to setup system and user preferences and user access rights for the operation of the wireless connect unit 30. Present Application p. 9, lines 6-18. A novel aspect of the illustrated embodiment is that the unit 30 is connected to a wireless carrier through a PSTN 54 connection and not by unique hardware or an in-office cellular network as was being done in the prior art at the time the present application was filed. As a result, the unit 30 only has to interface with conventional components, such as the PBX 14 and PSTN 54. This makes the system 30 substantially technology independent. Moreover, special wireless devices are not required, allowing the wireless devices 82, 84, 86, 88, 70 to function in a conventional manner (e.g., as independent wireless telephones or PDAs) and as part of the PBX network 11 as if they were hardwired office telephones. Present Application p. 10, lines 8-14.

An embodiment of the wireless connect unit 30 is reproduced below.



As can be seen, the wireless connect unit 30 comprises one or more processors generically represented by processor module 310 executing one or more computer programs stored in one or more memory units generically represented by memory module 320, which is coupled to processor module 310 via bus 330. Memory module 320 also contains one or more databases and other

processing memory used during the overall operation of system 10. Receiving and transmitting modules 340, 350, respectively, which are coupled to processor module 310 and memory module 320 via bus 330, are employed to receive and transmit information to the PBX and PSTN during call processing, as well as receiving and transmitting other information such as administrative information. Present Application p. 10, line 19 to p. 11, line 6.

The unit 30 also contains a database of extension numbers (also referred to as PBX extensions) and DID telephone numbers associated with each existing PBX extension. The database may be stored in memory module 320 or connected to the unit 30. The database may also contain a wireless connect/PBX extension (hereinafter referred to as a "WC-PBX extension") and one or more wireless device telephone numbers associated with each PBX extension. Present Application p. 11, lines 15-21. The PBX 14 contains a coordinated dialing plan (CDP) steering table that is used to route calls made to a PBX extensions to the wireless connection unit 30 instead of the office telephones. In addition, the CDP steering table directs calls to a WC-PBX extension received from the unit 30 to the appropriate office extensions and associated office (or virtual office) telephones. Present Application p. 12, lines 1-7.

Processor module 310 executes one or more programs stored in memory module 320 to process calls received through PBX 14 or PSTN 54. Figure 3 of the present application is illustrated below and illustrates example processing for an incoming station-to-station call (i.e., a direct extension call from one PBX telephone device to another PBX device). When an incoming station-to-station call is received by the PBX 14 for an existing PBX extension (step 102), the PBX 14 looks up the PBX extension in the CDP steering table (step 104) to determine where the call should be routed and then routes the call to the wireless connect unit 30 (step 106). Present Application p. 12, lines 12-17.

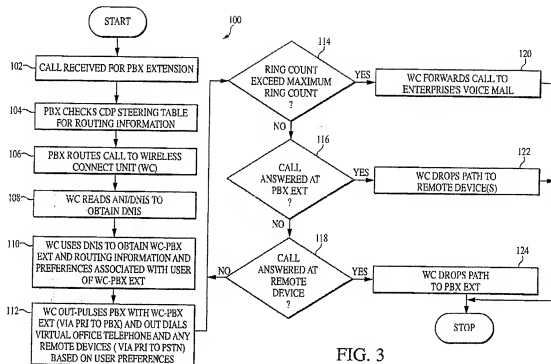


FIG. 3

The unit 30 reads the ANI/DNIS information from the incoming call to obtain the DNIS information and determine the dialed PBX extension (step 108). As noted above, the WC 30 has assigned a new WC-PBX extension to each existing PBX extension. The WC-PBX extension, routing information, and user preferences are obtained by using the DNIS information (identifying the PBX extension) as an index into the WC 30 database (step 110). Routing information will include any additional remote telephone numbers, voice mail box numbers, or other identification numbers of communication devices associated with the PBX extension. Present Application p. 12, line 21 to p. 13, line 7. At step 112, the unit 30 out-pulses the WC-PBX extension obtained in step 110 for any associated hardwired office telephone (e.g., 89, 90, etc.). Where the associated office telephone is a virtual office telephone (e.g., wireless telephone 82), however, the call is routed through the PSTN 16, 54 and the commercial wireless carrier network servicing the associated wireless device. At the same time (if desired), the unit 30 attempts to contact one or more alternative communication devices 70 by out-dialing a remote telephone number associated with the device 70. As such, the station-to-station call is connected to the unit 30 by one communication

path, and is routed to both an office telephone (wired or wireless) and to at least one remote device 70 simultaneously or substantially simultaneously (or as determined by the user preferences) using two additional communication paths. Present Application p. 13, lines 8-21.

At this point, if the call is not answered within a user set number of rings (step 114), the call is sent to the enterprise voice mail (step 120). Otherwise, if the call is answered at the PBX extension by the office telephone (e.g., 82, 84, 86, 88, 89, 90) (step 116), the communication path of the call is connected to the communication path between the WC 30 and the office telephone, and the path to the remote device 70 is dropped (step 122). If, however, the call is answered at the remote device 70 (step 118), the communication path of the call is connected to the communication path between the WC 30 and the remote device 70, and the path to the office telephone/PBX extension is dropped (step 124). Present Application p. 14, line 5 to p. 15, line 10. In an embodiment, it is desirable for the user to transmit an acknowledgement signal (e.g., DTMF signal) to the wireless connect unit 30 so the unit 30 can confirm that the call has been answered by a user and not an answering machine or voice mail service. Present Application p. 15, lines 1-7. Direct-inward-dialed (DID) calls are processed in essentially the same manner, one notable difference is that the WC 30 receives the call from a PSTN instead of the PBX 14 because the incoming call was made external of the network 11. See Present Application p. 16, line 18 to p. 19, line 2 and Figure 4.

In addition, as illustrated below in the flowchart of Figure 5, the wireless connect unit 30 allows the virtual office telephones (e.g., wireless telephones 82, 84, 86, 88) or any remote device 70 to act as standard office PBX telephones to place outbound telephone calls through the PBX 14. To do so, the user initially places a call to the wireless connect unit 30 from one of the devices 82, 84, 86, 88, 70 (step 302). Present Application p. 19, lines 11-19. At step 304, the WC 30 reads the ANI/DNIS information received from the device 82, 84, 86, 88, 70 to obtain ANI information, which identifies the telephone number of the calling device. The unit 30 uses the ANI information to obtain the user's access rights and user preferences (step 306). For example, the enterprise has the ability to set access rights defining what type of calls the user can place from the remote device

70 (e.g., local, long distance, international, station-to-station, etc.). These rights are checked at this step. Present Application p. 20, lines 4-10.

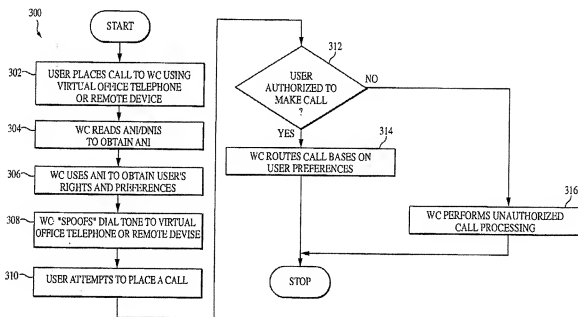


FIG. 5

At step 308, the WC 30 “spoofs” a dial tone to the virtual office telephone 82, 84, 86, 88 or remote device 70 the user is using to access the network 11. That is, the unit 30 generates and transmits a dial tone as if the user had picked up a conventional office telephone hardwired to the PBX 14. The spoofing of the dial tone may be achieved by the unit 30 internally generating the appropriate tone, which is then played to the virtual office telephone 82, 84, 86, 88 or remote device 70 as a prompt. At this point in the call process flow 300, the simulated dial tone alerts the user that he/she is connected to the office PBX 14 and may access any of its standard features. In the illustrated example embodiment, the user attempts to place an outbound call through the network 11 (step 310). The unit 30 receives the number dialed by the user and at step 312, determines if the user is authorized to make the call (via e.g., the user’s access rights), and if the user is authorized to place the call, the call is routed to the correct channel based on user preferences, access rights and

channel definitions (step 314). If the user is not authorized to place the call unauthorized call processing is performed (step 316). Present Application p. 21, line 17 to p. 22, line 12.

A novel aspect of the system 10, is that if the user decides to place a station-to-station call, for example, the call would appear to be an internally dialed call at the destination office telephone. For example, if the PBX 14 uses a different ring for internal calls, then the internal ring would be sent to the destination telephone even if the call was made from a virtual office telephone 82, 84, 86, 88 or remote device 70. If the PBX 14 normally displays the PBX extension of the calling party on the called office phone, then the PBX extension of the calling party would be displayed on the called office telephone even though the call was initiated from a virtual office telephone 82, 84, 86, 88 or remote device 70. Present Application p. 22, lines 15-23.

In another embodiment of the present application (reproduced below), a telecommunication system 10' consists solely of wireless devices 82, 84, 86, 88 and remote device 70 is provided. That is, the PBX network 11 including PBX 14 and various communication lines are removed from the system 10 described above with respect to Figure 1. In the illustrated embodiment, the wireless connect unit 30 directs all calls to and from the wireless office telephones to the PSTN 54 through the CSU 34 and PRIs 32, 36 for routing to wireless office devices 82, 84, 86, 88 or personal wireless device 70 using conventional wireless equipment as described with reference to Figure. 1. Present Application p. 25, lines 1-10.

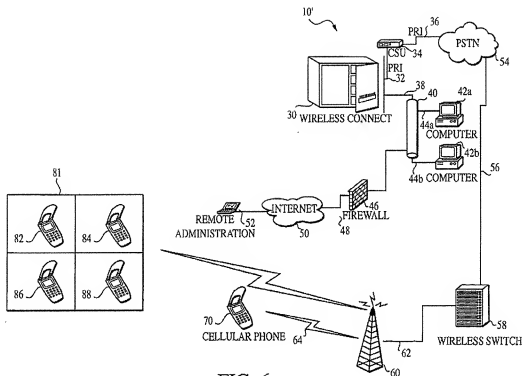


FIG. 6

These and other aspects of the embodiments of the invention as they appear in the various claims are discussed below.

Accordingly, independent claim 1 recites a telecommunication device 30 comprising a telephony interface 310 for receiving a telephone call via a first communication path and identifying a dialed telephone number associated with the call (e.g., steps 106, 108 or steps 204, 206). Present Application p. 12, line 12 to p. 13, line 1; p. 16, line 18 to p. 17, line 11. According to claim 1, said telephony interface 310 uses the dialed telephone number to retrieve at least one wireless telephone number and at least one user preference from a storage medium 320 (e.g., step 110 or 208). Present Application p. 13, lines 1-7; p. 17, lines 11-14. Said telephony interface 310 uses said at least one retrieved user preference to route the call to at least two wireless destination telephone numbers substantially simultaneously via respective second and third communication paths (e.g., step 112 or 210). Present Application p. 13, line 8 to p. 14, line 4; p. 17, line 14 to p. 18, line 3. Said telephony interface 310 connects the call to a user by connecting said first communication path to the second or third communication path when the second or third communication path is authenticated by the user (e.g., steps 116-124 or steps 214-222). Present Application p. 14, line 5 to p. 15, line 12; p. 18,

line 4 to p. 19, line 2. According to claim 1, said dialed telephone number and at least one of said at least two wireless destination telephone numbers are associated with an enterprise telecommunication network 11 consisting solely of wireless devices 82-88 and the other of said at least two wireless destination telephone numbers is not associated with the enterprise telecommunication network (e.g., device 70). Present Application p. 6, lines 1-16; p. 7, lines 3-20.

Independent claim 19 recites a telecommunication device 30 comprising a telephony interface 310 coupled to an enterprise telecommunication network 11, said telephony interface 310 receiving a telephone call via a first communication path from a wireless telephone (e.g., device 70) and identifying a wireless telephone number of the wireless telephone (e.g., steps 302, 304). Present Application p. 19, line 14 to p. 20, line 6. Said telephony interface 310 uses the identified wireless telephone number to retrieve a first enterprise extension telephone number associated with the wireless telephone and to retrieve at least one user preference from a storage medium and determines user access rights based on at least one enterprise preference associated with first enterprise extension telephone number (e.g., step 306). Present Application p.20, lines 6-17. Said telephony interface generates and sends a simulated dial tone to the wireless telephone and provides access to the enterprise telecommunication network based on said at least one user preference and the enterprise preference associated with said first enterprise extension telephone number (e.g., steps 308-314). Present Application p.21, line 17 to p. 22, line 14. According to claim 19, the enterprise telecommunication network consists solely of wireless communication devices. Present Application p. 6, lines 1-16.

Independent claim 26 recites a method 100, 200 of operating a wireless connect unit 30 to implement a virtual dual line telephone interface into an enterprise telecommunication network 11 location having a single line telephone interface. The method 100, 200 comprises connecting the enterprise telecommunication network 11 to a wireless connect unit 30 and providing at least one wireless telephone 82, 84, 96, 88 to the location. Present Application Figure 1 or 6. The method 100, 200 also comprises the steps of routing a telephone call made to an extension of the enterprise network 11 via a first communication path to the wireless connect unit 30 (e.g., steps 102-106 or step 204); identifying the extension from the routed telephone call (e.g., step 108 or step 206); using

the identified extension to retrieve a first telephone number associated with the wireless telephone and a second telephone number associated with a telecommunications device (e.g., step 110 or 208); routing the telephone call to at least one destination telephone number via a second communication path (e.g., step 112 or 210). Present Application p. 12, line 12 to p. 14, line 4; p. 16, line 18 to p. 18, line 3. Said at least one destination telephone number is selected from the group consisting of the first and second telephone numbers, and the wireless telephone can receive the call if the device associated with the second telephone number is unable to receive a call and the device associated with the second telephone number can receive the call if the wireless telephone is unable to receive the call. Present Application p. 14, line 5 to p. 15, line 12; p. 18, line 4 to p. 19, line 2. According to claim 26, extensions of the enterprise telecommunication network are solely associated with wireless devices. Present Application p. 6, lines 1-16.

Claim 29 recites a method 300 of providing access to an enterprise telecommunication network 11 from a wireless telephone 82-88 or 70. The claim 29 method comprises receiving a telephone call via a first communication path from the wireless telephone (e.g., step 302); identifying a wireless telephone number of the wireless telephone (e.g., step 304); using the wireless telephone number to retrieve an enterprise telephone number associated with the enterprise telecommunication network and determining access rights for a user of the wireless telephone (e.g., step 306). Present Application p. 19, line 14 to p. 20, line 17. If the user has rights to access the enterprise telecommunication network, said method 300 further comprises generating a simulated dial tone; sending the simulated dial tone to the wireless telephone via the first communication path (e.g., step 308); and providing telecommunication access to the enterprise telecommunication network based on at least one user preference and at least one enterprise preference associated with the retrieved enterprise telephone number (e.g., steps 310-314). Present Application p. 21, line 17 to p. 22, line 14. According to claim 29, the enterprise telecommunication network consists solely of wireless devices. Present Application p. 6, lines 1-16.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. The rejection of claims 1-3, 5, 8, 10-13, 15-18 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Hartmaier (U.S. Patent No. 5,978,672) in view of Jackson (U.S. Patent No. 6,275,577) and LaPierre (U.S. Patent No. 6,771,761).

B. The rejection of claims 4, 6, 7 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Hartmaier in view of Jackson, LaPierre and Chow (U.S. Patent No. 6,711,401).

C. The rejection of claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Hartmaier in view of Jackson, LaPierre and Cox (U.S. Publication No. 2002/0013141).

D. The rejection of claims 19-23, 25 and 29 under 35 U.S.C. § 103(a) as being unpatentable over Hartmaier in view of Jackson, LaPierre and Karpus (U.S. Patent No. 5,884,191).

E. The rejection of claim 24 under 35 U.S.C. § 103(a) as being unpatentable over Hartmaier in view of Jackson, LaPierre, Karpus and Chow.

VII. ARGUMENT

A. The Rejection of Claims 1-3, 5, 8, 10-13, 15-18 and 26 Under 35 U.S.C. § 103(A) as Being Unpatentable Over Hartmaier in View of Jackson and LaPierre Should be Reversed

Claim 1 recites “[a] telephony interface for receiving a telephone call via a first communication path, . . . identifying a dialed telephone number associated with the call, [and] using the dialed telephone number to retrieve . . . at least one user preference . . . to route the call to at least two wireless destination telephone numbers substantially simultaneously via respective second and third communication paths.” Claim 1 further recites “connecting the call to a user by connecting [the] first communication path to the second or third communication path when the second or third communication path is authenticated by the user.” Appellant respectfully submits that the cited combination fails to teach or suggest the above limitations.

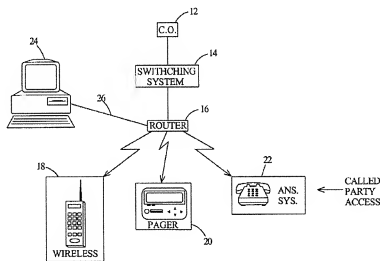
As Appellant has previously argued, Hartmaier refers to a programming interface between applications that execute on a private data network and applications that execute in a proprietary wireless network (WIN). Hartmaier Col. 10, lines 23-59. Hartmaier is essentially an interface communicating between two software programs. As mentioned in the Final Rejection, Hartmaier does not teach or suggest a majority of the claim 1 limitations. For example, Hartmaier fails to teach or suggest a telecommunication device comprising “[a] telephony interface for receiving a telephone call via a first communication path, . . . identifying a dialed telephone number associated with the call, [and] using the dialed telephone number to retrieve . . . at least one user preference . . . to route the call to at least two wireless destination telephone numbers substantially simultaneously via a second and third communication path.” Final Rejection at 3. Further, Hartmaier fails to teach or suggest the “telephony interface connecting the call to a user by connecting [the] first communication path to the second or third communication path when the second or third communication path is authenticated by the user.” Final Rejection at 3.

The Final Rejection attempts to combine Hartmaier with two other references (Jackson and LaPierre) to cure the above noted deficiencies. According to the Final Rejection, Jackson is cited as teaching a telephony interface that routes a call to at least two wireless destination telephone numbers substantially simultaneously via respective second and third communication paths, and that connects the call to a user by connecting the first communication to the second or third communication path when the second or third communication path is authenticated by the user. Final Rejection at 3. LaPierre is relied on as allegedly teaching that the extensions of the enterprise telecommunication network are solely associated with wireless devices. Final Rejection at 4.

Appellant respectfully submits that Jackson and LaPierre do not cure the deficiencies of Hartmaier. As recited in claim 1 and as described above in the “Summary of Claimed Subject Matter” portion of this brief, the claim 1 invention routes the “call to at least two wireless destination telephone numbers substantially simultaneously via respective second and third communication paths” and connects “the call to a user by connecting said first communication path to the second or third communication path when the second or third communication path is

authenticated by the user” (emphasis added). Appellant respectfully submits that none of the cited references teach or suggest these claimed features.

Contrary to the statements in the Final Rejection, Jackson fails to teach or suggest these limitations. Jackson merely refers to a call routing system having a router 16 that sends a page request to a pager 20 and a call request to a wireless phone 18 in response to an inbound call. Jackson Col. 2, lines 1-42. Jackson’s lone figure is reproduced below.



In Jackson, however, the incoming call is not forwarded to and cannot be answered by the user at the pager 20; instead, the pager 20 only receives a page (via the request). Hence, Jackson cannot connect the incoming call to the pager’s communication path. This is entirely different than the claim 1 invention, which recites that the “call” is routed to “at least two wireless destination telephone numbers . . . via respective second and third communication paths.” The Jackson page request is not a call. Moreover, claim 1 recites that the “call” is connected to the user “by connecting said first communication path to the second or third communication path when the second or third communication path is authenticated by the user.” The Jackson pager 20 serves only a notifying function that alerts the called party that he has a call at the wireless phone 18. A call is not sent to the Jackson pager 20, nor can a call be answered at the Jackson pager 20. Absent these

teachings, Jackson must fail to teach or suggest the claim 1 invention. Specifically, Jackson only discloses a system in which the user can answer the incoming call using one communication path (to the wireless phone 18) whereas in the claimed invention, the user can answer the incoming call using either the second or third communication path, associated with two different wireless devices (e.g., 82, 70) that can answer a call.

Furthermore, Jackson also fails to teach the recited authentication process found in claim 1. In Jackson, the user presses a call-connect key to selectively connect the incoming call to the wireless device 18 in response to an inaudible alert. Jackson Col. 2, lines 30-34. This is not the same as the “authenticating” feature of the claimed invention. For example, as described above, the claimed authenticating feature requires the user to authenticate the call by answering the respective wireless device associated with the communication path and pressing another key (or activating a feature at the device). In Jackson, the call is merely connected upon pressing the call-connect key. At best, Jackson teaches answering the call at the wireless phone 18, but this falls short of the claim 1 invention. This is another reason why claim 1 is allowable over the cited combination.

Thus, the cited combination fails to render obvious all limitations of claim 1 and therefore, claim 1 should be allowable. Claims 2, 3, 5, 8, 10-13 and 15-18 depend from claim 1 and are allowable along with claim 1.

Claim 26 recites a method to implement a virtual dual line telephone interface into an enterprise telecommunication network location having a single line telephone interface comprising the steps of “providing at least one wireless telephone to the location; routing a telephone call made to an extension of the enterprise network via a first communication path to the wireless connect unit; [and] . . . routing the telephone call to at least one destination telephone number via a second communication path.” According to claim 26, “the wireless telephone can receive the call if the device associated with the second telephone number is unable to receive a call and the device associated with the second telephone number can receive the call if the wireless telephone is unable to receive the call.” Appellant respectfully submits that for at least the reasons set forth above, the cited combination fails to teach or suggest all of the limitations of claim 26.

Moreover, Appellant respectfully submits that it would not have been obvious to one of ordinary skill in the art to combine the teachings of the cited prior art to achieve a system for selectively establishing communication with one or more of a plurality of wireless devices serving as a virtual office telephone. One of ordinary skill would not have looked to a programming interface between computer applications (Hartmaier) to combine it with a system for call routing/paging (Jackson) and a system for routing a call to an alternate destination associated with a subscriber of a universal number service (LaPierre) to achieve a system, serving as a virtual office, that establishes communication with one or more of a plurality of wireless devices capable of handling a call. Thus, Appellant respectfully submits that it is improper to combine the references in the manner suggested by the Final Rejection.

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in the references themselves. In re Fine, 837 F.2d 1071, 1084 (Fed. Cir. 1988). There is no suggestion or motivation in any of the references for combining them to arrive at the claimed invention.¹ The Final Rejection is using impermissible hindsight by using the claims of the present application as a road map to improperly combine the references. Ex parte Clapp, 227 U.S.P.Q. 972, 973 (Bd. App. 1985); M.P.E.P. §2144.

Accordingly, for at least the foregoing reasons, Appellant respectfully requests that the rejection be reversed.

B. The Rejection of Claims 4, 6, 7 and 14 Under 35 U.S.C. § 103(A) as Being Unpatentable Over Hartmaier in View of Jackson, LaPierre and Chow Should be Reversed

Claims 4, 6, 7 and 14 depend from claim 1. As such, they each recite a telephony interface “for receiving a telephone call via a first communication path, . . . identifying a dialed telephone number associated with the call, [and] using the dialed telephone number to retrieve . . . at least one

¹ Appellant notes that the recent KSR Int’l Co. v. Teleflex Inc., decision did not do away with the teaching, suggestion and motivation (TSM) test.

user preference . . . to route the call to at least two wireless destination telephone numbers substantially simultaneously via respective second and third communication paths.” For at least the reasons set forth above, the Hartmaier, Jackson and LaPierre combination fails to teach or suggest these limitations.

Chow is cited as teaching a user preference that defines a predetermined time that corresponds to a number of preferred telephone rings. However, even if the Final Rejection is correct about Chow, Chow does not teach or suggest “[a] telephony interface for receiving a telephone call via a first communication path, . . . identifying a dialed telephone number associated with the call, [and] using the dialed telephone number to retrieve . . . at least one user preference . . . to route the call to at least two wireless destination telephone numbers substantially simultaneously via respective second and third communication paths.” Thus, Chow does not cure the above noted deficiencies of the Hartmaier, Jackson and LaPierre combination.

Nor would it have been obvious to one of ordinary skill in the art to combine Chow with Hartmaier, Jackson and LaPierre to achieve the claimed invention. None of the cited references teach or suggest, or even relate to, achieving a system for selectively establishing communication with one or more of a plurality of wireless devices capable of handling a call and serving as a virtual office telephone for at least the reasons set forth above.

Accordingly, the cited combination fails to teach or suggest all limitations of claim 1 and thus, claims depending from claim 1. Accordingly, Appellant respectfully submits that claims 4, 6, 7 and 14 are allowable over the cited combination.

Accordingly, for at least the foregoing reasons, Appellant respectfully requests that the rejection be reversed.

C. The Rejection of Claim 9 Under 35 U.S.C. § 103(A) as Being Unpatentable Over Hartmaier in View of Jackson, LaPierre and Cox Should be Reversed

Claim 9 depends from claim 1. As such, claim 9 recites “[a] telephony interface for receiving a telephone call via a first communication path, . . . identifying a dialed telephone number

associated with the call, [and] using the dialed telephone number to retrieve . . . at least one user preference . . . to route the call to at least two wireless destination telephone numbers substantially simultaneously via respective second and third communication paths.”

For at least the reasons set forth above, these features are not taught or suggested by the Hartmaier, Jackson and LaPierre combination. Cox, which has been cited as teaching a telephony interface that prompts a caller of the telephone call with a menu of call destination options and that places the call in accordance with an option selected by the caller (Final Rejection at 10), also fails to disclose the above limitations. Accordingly, claim 9 is allowable over the cited combination for at least the reasons set forth above.

Accordingly, for at least the foregoing reasons, Appellant respectfully requests that the rejection be reversed.

D. The Rejection of Claims 19-23, 25 and 29 Under 35 U.S.C. § 103(A) as Being Unpatentable Over Hartmaier in View of Jackson, LaPierre and Karpus Should be Reversed

Claim 19 recites a device for “determining access rights for a user of the wireless telephone and if the user has rights to access the enterprise telecommunication network, generating and sending a simulated dial tone to the wireless telephone and providing access to [an] enterprise telecommunication network.” The Final Rejection admits that the Hartmaier, Jackson and LaPierre combination do not teach or suggest claim 19’s act of generating and sending a simulated dial tone to a wireless telephone, and relies on Karpus to solve this shortcoming. Final Rejection at 12-13.

Figure 1a of Karpus is reproduced below. As can be seen, Karpus merely discloses an interface system 100 that connects various accessories (e.g., speaker phone 170, handset 180, modem 190) to a radiotelephone 110 (also referred to as a cellular telephone) and provides arbitration between conflicting requests for access to the audio channel of the telephone 110 from the accessories. Karpus Col. 2, line 65 to Col. 3, line 11. A goal of Karpus is to overcome the “shortcoming of sending and receiving facsimiles via a cellular telephone” which often requires the

modem 190 to be repeatedly connected to, and disconnected from, the cellular telephone 110 when the user wishes to send or receive a facsimile or place or receive a voice telephone call. Karpus Col. 1, lines 23-53

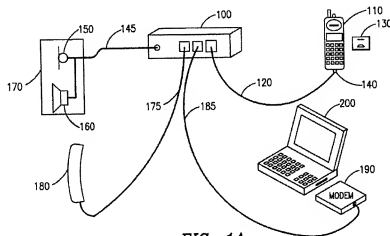


FIG. 1A

A docking station 130 is provided for holding the radiotelephone 110 when is use by the system 100. According to Karpus, "it is likely that the cellular telephone 110 will be placed in the docking station 130 in order to effectuate other connections such as to a higher powered transmitter and a remotely located antenna. Therefore, handset 180 allows easy access to the audio channel of the radiotelephone 110." Karpus Col. 2 lines 52-58. Karpus uses grant lines (not shown) to communicate when access to the audio channel is available. Karpus Col. 4, lines 43-59. Karpus is essentially an arbitration switch between accessory devices and would not be used in combination with the systems of Hartmaier, Jackson and LaPierre. As argued during prosecution of the present application, Appellant submits that the systems are just too different and thus, Appellant believes Karpus to be not relevant to the technology of the claimed invention.

Even if relevant, which Appellant does not concede, Karpus does not teach or suggest "determining access rights for a user of the wireless telephone and if the user has rights to access the enterprise telecommunication network, generating and sending a simulated dial tone to the wireless

telephone and providing access to [an] enterprise telecommunication network . . . that consists solely of wireless devices.” Karpus is concerned with granting the accessory devices (e.g., speakerphone 170, handset 180, modem 190) access rights to the audio channel of the cellular telephone 110. When the rights are granted, the system 100 communicates the grant to the accessories, not the cellular telephone 110. According to Karpus:

[t]he various accessories can be informed when they have been granted access to the audio channel of the radiotelephone 110. Separate grant lines can be used to communicate an access grant from the controller 300 to the various accessories devices or as in the case of PCMCIA modems the same request link can be used to provide notification of an access grant. Although cellular telephones do not provide a dial tone, another method to provide notification of an access grant is to provide a simulated dial tone. In the case of a handset 180 or a speakerphone 170, the cellular telephone user is made aware of an access grant by hearing the simulated dial tone. Although PCMCIA modems do not currently detect dial tones, other modems can detect the dial tones to determine that access to the radiotelephone 110 audio channel has been granted.
Karpus Col. 4, lines 43-57.

The Final Rejection improperly construes the above statement to imply that Karpus teaches “generating and sending a simulated dial tone to the wireless telephone.” As can be seen, the notifications are being sent to Karpus’ “accessories” (e.g., speakerphone 170, handset 180, modem 190), not the cellular telephone 110. This is a major difference between the claimed invention and Karpus. In Karpus, dial tones are being sent to devices that typically use dial tones (e.g., speakerphone 170, handset 180, modem 190). The claimed invention, on the other hand, is generating and sending a dial tone to a device that does not use dial tones (i.e., wireless telephone) to indicate that the wireless telephone has been granted access to a communication network (not an audio channel of a phone). The reference by Karpus to “cellular telephone user” means the user associated with the telephone 110 and the other accessories connected to the system 100. The user hears the dial tone through the speakerphone 170 or handset 180, but not the cellular telephone 110, which is in the docking station 130. This is further evidenced by the fact that Karpus then states

that “other modems” for detecting dial tones would be needed to receive notification using the dial tone notification method. Clearly, Karpus is teaching that the accessories are receiving the dial tone and not the telephone 110, otherwise a special modem would not be required.

Appellant requests reconsideration of this rejection based on the foregoing and respectfully submits that claim 19 is allowable over the cited combination for at least the reason that Karpus does not teach or suggest “generating and sending a simulated dial tone to the wireless telephone.” Claim 20-23 and 25 depend from claim 19 and are allowable along with claim 19.

Claim 29 recites similar limitations and is allowable for at least the reasons set forth above.

Accordingly, for at least the foregoing reasons, Appellant respectfully requests that the rejection be reversed.

E. The Rejection of Claim 24 Under 35 U.S.C. § 103(A) as Being Unpatentable Over Hartmaier in View of Jackson, LaPierre, Karpus and Chow Should be Reversed

Claim 24 depends from claim 19 and is allowable along with claim 19 because, as set forth above, none of the references teach or suggest a telephony interface “determining access rights for a user of the wireless telephone and if the user has rights to access the enterprise telecommunication network, generating and sending a simulated dial tone to the wireless telephone and providing access to [an] enterprise telecommunication network.”

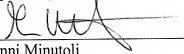
Accordingly, for at least the foregoing reasons, Appellant respectfully requests that the rejection be reversed.

VIII. CONCLUSION

For each of the foregoing reasons, Appellant respectfully requests reversal of each of the final grounds of rejection.

Dated: July 10, 2007

Respectfully submitted,

By 

Gianni Minutoli

Registration No.: 41,198

DICKSTEIN SHAPIRO LLP

1825 Eye Street, NW

Washington, DC 20006-5403

(202) 420-2200

Attorney for Appellant

APPENDIX A – CLAIMS APPENDIX

Claims Involved in the Appeal of Application No. 09/879,917

1. (Previously presented) A telecommunication device comprising:

a telephony interface, said telephony interface for receiving a telephone call via a first communication path and identifying a dialed telephone number associated with the call, said telephony interface using the dialed telephone number to retrieve at least one wireless telephone number and at least one user preference from a storage medium, said telephony interface using said at least one retrieved user preference to route the call to at least two wireless destination telephone numbers substantially simultaneously via respective second and third communication paths, and said telephony interface connecting the call to a user by connecting said first communication path to the second or third communication path when the second or third communication path is authenticated by the user,

wherein said dialed telephone number and at least one of said at least two wireless destination telephone numbers are associated with an enterprise telecommunication network consisting solely of wireless devices and wherein the other of said at least two wireless destination telephone numbers is not associated with the enterprise telecommunication network.

2. (Previously presented) The device of claim 1, wherein a first wireless destination telephone number corresponds to said retrieved wireless telephone number and a second wireless destination telephone number corresponds to a retrieved second wireless telephone number.

3. (Previously presented) The device of claim 2, wherein said telephony interface routes the call to a third wireless destination number corresponding to a voice mailbox telephone number after a predetermined time as defined by said at least one retrieved user preference.

4. (Original) The device of claim 3, wherein said predetermined time corresponds to a number of telephone rings defined by said at least one retrieved user preference.

5. (Previously presented) The device of claim 1, wherein said telephony interface routes the call to a first wireless destination telephone number corresponding to said retrieved wireless telephone number and to a second wireless destination telephone number corresponding to a retrieved second wireless telephone number as defined by said at least one retrieved user preference.

6. (Previously presented) The device of claim 5, wherein said at least one retrieved user preference defines a first ring count for the call to said first wireless destination telephone number and a second different ring count for the call to said second wireless destination telephone number.

7. (Previously presented) The device of claim 6, wherein said telephony interface routes the call to a third wireless destination telephone number corresponding to a voice mailbox telephone number after said telephony interface rings said first wireless destination number more than said first ring count.

8. (Previously presented) The device of claim 1, wherein said telephony interface routes the call to a voice mailbox telephone number.

9. (Previously presented) The device of claim 1, wherein said telephony interface prompts a caller of the telephone call with a menu of call destination options and said telephony interface places the call to at least two wireless destination telephone numbers in accordance with an option selected by the caller.

10. (Original) The device of claim 1, wherein said telephony interface communicates with a private branch exchange, and wherein at least one of said at least one destination telephone numbers is associated with the private branch exchange.

11. (Original) The device of claim 10, wherein said at least one destination telephone number associated with the private branch exchange is associated with a cellular telephone.

12. (Original) The device of claim 11, wherein the cellular telephone can operate independently from said device.

13. (Previously presented) The device of claim 10, wherein another of said at least two wireless destination telephone numbers is associated with a pager.

14. (Previously presented) The device of claim 10, wherein another of said at least two wireless destination telephone numbers is associated with a personal digital assistant.

15. (Previously presented) The device of claim 1, wherein said telephony interface receives the call from a public switched telephone network, and wherein at least one of said at least two wireless destination telephone numbers is associated with a private branch exchange.

16. (Previously presented) The device of claim 15, wherein at least one of said at least two wireless destination telephone numbers associated with the private branch exchange is associated with a cellular telephone.

17. (Original) The device of claim 1, wherein said telephony interface is connected to a local area network and said at least one user preference is input via the local area network.

18. (Original) The device of claim 1, wherein said telephony interface is connected to the Internet and said at least one user preference is input via the Internet.

19. (Previously presented) A telecommunication device comprising:

a telephony interface coupled to an enterprise telecommunication network, said telephony interface receiving a telephone call via a first communication path from a wireless telephone and identifying a wireless telephone number of the wireless telephone, said telephony interface using the identified wireless telephone number to retrieve a first enterprise extension telephone number associated with the wireless telephone and to retrieve at least one user preference from a storage medium, said telephony interface determining user access rights based on at least one enterprise preference associated with first enterprise extension telephone number, generating and sending a simulated dial tone to the wireless telephone and providing access to the enterprise

telecommunication network based on said at least one user preference and the enterprise preference associated with said first enterprise extension telephone number,

wherein said enterprise telecommunication network consists solely of wireless communication devices.

20. (Original) The device of claim 19, wherein said at least one enterprise preference comprises a security group defining authorized outbound call access of a user of the wireless telephone.

21. (Original) The device of claim 19, wherein said at least one user preference comprises a dial tone timeout period, wherein a user of the wireless telephone is prevented from placing a call after the dial tone timeout period expires.

22. (Previously presented) The device of claim 19, wherein said telephony interface further comprises:

means for receiving a second telephone call, said second telephone call being placed to said first enterprise extension telephone number;

means for identifying the first enterprise extension telephone number from the second call;

means for using the first enterprise extension telephone number to retrieve at least the wireless telephone number; and

means for using said at least one user preference to route the second call via a second communication path to at least one destination telephone number, wherein said at least one destination telephone number is selected from the group consisting of the wireless telephone number and a voice mailbox telephone number.

23. (Original) The device of claim 22, wherein said telephony interface routes the second call to two destination telephone numbers simultaneously, a first destination telephone number corresponding to the wireless telephone and a second destination telephone number corresponding to a retrieved second telephone number.

24. (Original) The device of claim 23, wherein said telephony interface routes the second call to a third destination number corresponding to said voice mailbox telephone number after a predetermined time as defined by at least one retrieved user preference.

25. (Original) The device of claim 22, wherein said telephony interface routes the second call to a first destination telephone number corresponding to the wireless telephone number and to a second destination telephone number corresponding to a retrieved second telephone number in a sequential manner and as defined by at least one retrieved user preference.

26. (Previously presented) A method of operating a wireless connect unit to implement a virtual dual line telephone interface into an enterprise telecommunication network location having a single line telephone interface, said method comprises:

connecting the enterprise telecommunication network to a wireless connect unit;

providing at least one wireless telephone to the location;

routing a telephone call made to an extension of the enterprise network via a first communication path to the wireless connect unit;

identifying the extension from the routed telephone call;

using the identified extension to retrieve a first telephone number associated with the wireless telephone and a second telephone number associated with a telecommunications device;

routing the telephone call to at least one destination telephone number via a second communication path, wherein said at least one destination telephone number is selected from the group consisting of the first and second telephone numbers, and

wherein the wireless telephone can receive the call if the device associated with the second telephone number is unable to receive a call and the device associated with the second telephone number can receive the call if the wireless telephone is unable to receive the call, and

wherein extensions of the enterprise telecommunication network are solely associated with wireless devices.

27-28. (Canceled)

29. (Previously presented) A method of providing access to an enterprise telecommunication network from a wireless telephone, said method comprises:

receiving a telephone call via a first communication path from the wireless telephone;

identifying a wireless telephone number of the wireless telephone;

using the wireless telephone number to retrieve an enterprise telephone number associated with the enterprise telecommunication network;

determining access rights for a user of the wireless telephone and if the user has rights to access the enterprise telecommunication network, said method further comprising:

generating a simulated dial tone;

sending the simulated dial tone to the wireless telephone via the first communication path; and

providing telecommunication access to the enterprise telecommunication network based on at least one user preference and at least one enterprise preference associated with the retrieved enterprise telephone number,

wherein the enterprise telecommunication network consists solely of wireless devices.

APPENDIX B – EVIDENCE APPENDIX

NONE

APPENDIX C – RELATED PROCEEDINGS APPENDIX

NONE